

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 10 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

JERI HEWITT,

Plaintiff - Appellant,

v.

AMERIGAS PROPANE INC,

Defendant - Appellee.

No. 04-16697

D.C. No. CV-02-02759-GEB/JFM

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, District Judge, Presiding

Argued and Submitted June 14, 2006
San Francisco, California

Before: HUG and O'SCANNLAIN, Circuit Judges, and MILLER^{**}, District
Judge.

Jeri Hewitt appeals from the district court's grant of summary judgment in
favor of her former employer, Amerigas Propane, Inc. ("Amerigas"), on her claims
that Amerigas engaged in discrimination prohibited by Title VII of the Civil Rights

^{*} This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The Honorable Jeffrey T. Miller, United States District Judge for the
Southern District of California, sitting by designation.

Act of 1964, the Age Discrimination in Employment Act, and the California Fair Employment & Housing Act.

The district court did not abuse its discretion by denying Hewitt's request to re-open discovery. *See Byrd v. Guess*, 137 F.3d 1126, 1135 (9th Cir. 1998).

The district court properly granted summary judgment on Hewitt's termination claims because Amerigas produced evidence of a legitimate nondiscriminatory reason for terminating Hewitt's employment and Hewitt failed to raise a genuine issue of disputed fact to support her claims that her age or gender motivated Amerigas's decision. *See Mondero v. Salt River Project*, 400 F.3d 1207, 1213 (9th Cir. 2005).

The district court properly granted summary judgment on Hewitt's hostile environment claim. *See Kortan v. California Youth Auth.*, 217 F.3d 1104, 1106-07 (9th Cir. 2000).

The district court did not abuse its discretion in dismissing without prejudice Hewitt's state-law claim for unlawful retaliation. 28 U.S.C. § 1367 (c)(3).

AFFIRMED.